

## State of California

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### **Legislative Change No.**

**03-05**

Bill Number: AB 1756

Author: Assem. Budget Comm. Chapter Number: 03-228

Laws Affecting Franchise Tax Board: Revenue and Taxation Code Sections 18409, 18621.9, and 19170.

Date Filed with the Secretary of the State: August 11, 2003

SUBJECT: Mandatory E-File For Tax Practitioners

**Assembly Bill 1756 (Assembly Budget Committee), as enacted on August 11, 2003, made the following changes to California law:**

Section 18409 of the Revenue and Taxation Code (R&TC) is amended.

This act removes individuals from the current law prohibiting the Franchise Tax Board (FTB) from requiring tax returns to be filed on anything other than a paper form supplied by FTB.

Section 18621.9 of the R&TC is added.

This act:

- requires all returns prepared by an income tax preparer that prepared more than 100 timely original individual income tax returns during any calendar year, beginning with the 2003 calendar year, to be e-filed in subsequent years if one or more of those tax returns was prepared using tax preparation software;
- defines "income tax return preparer" as:
  - any person that prepares for compensation or employs one or more persons to prepare for compensation any tax return under the Personal Income Tax Laws (PITL);
  - any person that is required to include a tax preparer identification number on a tax return;
- defines "original individual income tax return" as a tax return filed by an individual;
- provides that "timely" original individual income tax returns are those returns that are required to be filed during a calendar year, regardless of extensions, which would generally exclude amended returns and prior year returns;
- defines "acceptable individual income tax return" as a tax return filed by an individual that FTB determines may be filed using electronic technology;
- provides that the laws regarding administrative regulations and rulemaking are not applicable for purposes of determining which tax returns shall be treated as acceptable individual income tax returns for purposes of this bill;
- defines "tax preparation software" as any computer software program intended for accounting, tax return preparation, or tax compliance;

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Date  
8/22/03

- provides that the requirement to e-file under this bill would not apply during a calendar year if the income tax preparer prepared 25 or fewer returns during the previous calendar year;
- provides that this bill applies to acceptable individual income tax returns required to be filed for taxable years beginning on or after January 1, 2004; and
- provides that the requirement to e-file under this bill would not apply on or before January 1, 2004.

Section 19170 of the R&TC is added.

This act provides that an income tax preparer subject to the requirements in this bill is subject to a \$50 penalty for each acceptable individual income tax return that is prepared and then not e-filed, unless the failure to e-file is due to reasonable cause and not due to willful neglect. For purposes of this act, reasonable cause includes, but is not limited to, a taxpayer's election not to e-file the return.

This act is effective as of August 11, 2003, and applies to individual income tax returns that are required to be filed for taxable years beginning on or after January 1, 2004.

This act will not require any reports by the department to the Legislature.